

FORM 5, BFM 50.10

(NOTE: A copy of this form may be obtained from the Bureau of Finance and Management. If your rules have a negative fiscal impact on a local government, such as a county or a school district, you must direct the Bureau of Finance and Management to send a copy of its fiscal note to the organizations listed in SDCL 1-26-4.2.)

ADMINISTRATIVE PROCEDURES ACT FISCAL NOTE Prepared by Submitting Agency

	CODE	NAME
DEPARTMENT	26	Public Utilities Commission
DIVISION		
PROGRAM		

PROPOSED RULES: 20:10:24:02, 20:10:24:04.02, 20:10:24:04.05, 20:10:24:05, 20:10:32:03, 20:10:32:06.01, 20:10:32:10, 20:10:32:29, 20:10:32:30, 20:10:32:31.01, 20:10:32:39, 20:10:32:54, 20:10:32:55, 20:10:33:22, 20:10:34:02.02 and 20:10:34:10

Hearing Date: August 2, 2007

FISCAL IMPACT STATEMENT:

Brief description of fiscal impact; (Example: Pursuant to 1-26-402, these rules have minimal impact to all entities. No additional staffing or resources are needed.) There is no impact on state or local governments. For small businesses that appear before the Commission, some rules will result in decreased costs and some rules will result in increased costs. This is explained in more detail below.

FISCAL NOTE SUMMARY:

List state agencies of local governmental subdivisions affected.

COST INCREASES (DECREASES)

State Agencies:	First-Year Impact	Continuous-Yearly Impact
	0	0
TOTAL	0	0
Local Subdivisions:		
	0	0
TOTAL	0	0
Small Business Increases (Decreases)		
TOTAL	Unable to quantify; depending on which rule, could be decreases or increases. See explanation below for more detail.	Unable to quantify. Depending on which rule, could be decreases or increases. See explanation below for more detail.

REVENUE INCREASES (DECREASES)

Revenue Increases (Decreases) State, Local & Small Business :		
	0	0
	0	0
TOTAL	0	0

APPROVED  DATE 6/29/07
Signature Department Secretary or Board or Commission Chairman

ATTACH: Copy of proposed rules; separate sections for: 1) explanation of rules effect, i.e. what procedures, schedules, activities, etc. will change with its adoption 2) statistics used, and their source, 3) assumptions that were made to arrive at fiscal impact, 4) computations that were made, and 5) small business impact statement

EXPLANATION OF RULES EFFECT AND FISCAL IMPACT

Small companies who apply for a certificate of authority to provide telephone service in South Dakota will need to comply with the proposed revised application requirements. For applicants seeking authority to provide interexchange service, the changes to 20:10:24:02 add some requirements, including providing information to customers and how the applicant intends to prevent slamming. The changes also delete some requirements, including the filing of tariffs, cost support for certain rates, and organizational information. The changes to 20:10:32:03 apply to applications for certificates of authority to provide local exchange services in South Dakota. The changes regard adding some additional requirements regarding providing information to customers. The changes also delete some requirements, including the filing of tariffs, cost support for certain rates, and organizational information. Proposed changes to 20:10:24:05 will affect small businesses that provide operator services. These changes add requirements regarding notification to customers prior to the customer incurring charges for a call. The changes also delete the requirement to file tariffs. In addition, the change to 20:10:24:04.02 deletes the requirement to maintain on file all tariffs and rates.

Fiscal Impact: The fiscal impacts of all of these changes regarding certificates of authority are difficult to ascertain. The deletion of tariffs and cost reporting would likely decrease the costs of filing for a certificate of authority. The addition of some requirements could increase costs. However, it is likely that overall costs would decrease due to the deletion of the tariff requirements.

Applicants for certificates of authority will also be affected by changes to 20:10:24:04.05 which clarifies that any security filed by an applicant to provide interexchange service is only for the benefit of South Dakota customers. Proposed rule 20:10:32:06.01 allows the Commission to require some form of security as a condition to receiving a certificate of authority for local exchange service.

Fiscal Impact: If an applicant is required to provide security, this will mean increased costs. However, an applicant may avoid providing security by not requiring prepayment of services from its customers.

Small business applicants for local exchange service may also be affected by the changes to 20:10:32:10 which allows the Commission to waive the provisioning of a requirement for local exchange service if it is not necessary, based on the type of service being provided.

Fiscal Impact: The waiver of requirements could decrease costs.

Small telephone companies that already have authority to operate in South Dakota will also be affected. The changes to 20:10:32:29 require a petition for arbitration regarding interconnection agreements to be accompanied by written testimony, exhibits, cost support, request for protective order, and proposed procedural schedule. For 20:10:32:30, responses to arbitrations must contain the information that is required for petitions for arbitrations. Proposed rule 20:10:32:31.01 is a new rule which sets forth how a person who is not a party to an arbitration may participate. The change to 20:10:32:39 requires a petition for suspension or modification of an interconnection requirement to include written testimony and exhibits.

Fiscal Impact: The requirement of providing testimony at the time of filing a petition will require companies to incur those costs earlier in the proceedings as opposed to later in the proceedings.

The change to 20:10:32:54 clarifies that an eligible telecommunications carrier (ETC) must continue to file improvement plans after the filing of the initial plan. The change to 20:10:32:55 requires the annual lifeline report to be filed with the annual certification. These changes will affect all small telephone companies that have been designated as ETCs.

Fiscal Impact: The filing of improvement plans results in costs to the ETC. However, the certification of an ETC to the FCC results in ETCs in South Dakota receiving millions of dollars in federal universal service funding.

For 20:10:33:22, the change requires local exchange companies to notify customers in advance of all interruptions due to maintenance, if possible.

Fiscal Impact: This change could increase costs since the current rule required notification only for extended outages. However, given the lack of a definition of an extended outage, it is reasonable to expect that companies were giving notice for known outages already.

The addition of 20:10:34:02.02 sets forth the requirements for notifying customers when a new telephone company acquires the subscriber base of another carrier. This will affect small telephone companies that acquire subscribers from another carrier.

Fiscal Impact: These changes track current FCC rules and thus companies were likely already providing this notification.

Changes to 20:10:34:10 reflect statutory changes. The changes regard how telephone customers are notified of changes in rates, terms, and conditions of service.

Fiscal Impact: With respect to costs, the elimination of tariff filings will decrease costs incurred by companies. With respect to notification of changes, costs could increase for notification if the company is not currently notifying its customers.